

Exhibit 5

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| <p>1 Palo Alto, California; Wednesday, December 9, 2015 2 9:40 a.m. 3 P R O C E E D I N G S 4 THE VIDEOGRAPHER: Good morning. We are 5 on the record at 9:40 a.m. on December 9th, 2015. 6 This is the videotaped deposition of Google, Inc. 7 The deponent is Mr. Anwar Ghuloum. My name is Ramon 8 Peraza, here with our court reporter, Kelli Combs. 9 We're hear from Veritext Legal Solutions at the 10 request of counsel for the Plaintiff. This 11 deposition is being held at King & Spalding in 12 Palo Alto. The caption of this case is Oracle 13 America, Inc. versus Google, Inc., Case Number CV 14 10-03561 WHA.</p> <p>15 Please note that audio and video recording 16 will take place unless all parties have agreed to go 17 off the record. Microphones are sensitive and may 18 pick up whispers or private conversations.</p> <p>19 At this time, Counsel, please identify 20 yourselves for the record and state whom you 21 represent.</p> <p>22 MR. RAMSEY: This is Gabriel Ramsey with 23 Orrick, Herrington & Sutcliffe for the Plaintiff, 24 Oracle, and with me also is Mohamed Shakar.</p> <p>25 MR. KWUN: Michael Kwun at Keker & Van</p> | <p>1 start the next question just to make it easier on 2 her life. 3 So you understand that you've been 4 designated today to testify on behalf of Google on a 5 topic in a deposition notice that Oracle sent to 6 Google? 7 A Yes. 8 MR. RAMSEY: Okay. Madam Court Reporter, 9 do you remember the first exhibit we used yesterday? 10 THE REPORTER: The first exhibit was 11 15014 -- no, 5014. 12 BY MR. RAMSEY: 13 Q I'm going to hand you a document that's 14 already been marked Exhibit 5014. 15 Just let me know if you recognize this 16 document. 17 A I do not recognize this document. 18 Q Okay. 19 If you could please turn to page 10 -- no, 20 sorry, page 8 of Exhibit 5014. 21 Are you at page 8? 22 A Yes. 23 Q And you'll see there's a Topic 10, and I 24 quote: 25 "All commercially-acceptable,</p> |
| <p>Page 6</p> <p>1 Nest for the witness and for Google, and with me 2 today are Renny Hwang and Catherine Lacavera, 3 in-house at Google.</p> <p>4 THE VIDEOGRAPHER: The court reporter may 5 now swear in the witness.</p> <p>6 ANWAR GHULOUM, 7 after having been duly sworn, testified as follows: 8 ---oo---</p> <p>9 EXAMINATION</p> <p>10 BY MR. RAMSEY:</p> <p>11 Q All right. Good morning, Mr. Ghuloum. My 12 name is Gabe Ramsey.</p> <p>13 Have you ever had your deposition taken 14 before?</p> <p>15 A No.</p> <p>16 Q All right.</p> <p>17 So the way it works is, just briefly, I 18 ask you questions, you answer. You're under oath.</p> <p>19 You know that, correct?</p> <p>20 A Yes.</p> <p>21 Q All right.</p> <p>22 And the most important thing, as a punch 23 line, is let's try not to talk over each other.</p> <p>24 When I -- let me finish my question before you 25 answer, and I'll let you finish your answer before I</p> | <p>1 non-infringing substitutes to all 2 or any of the 37 Java API packages 3 used in Android. All your reasons 4 for your conclusion that such 5 substitutes are commercially 6 acceptable and non-infringing and 7 all reasons you did not use such 8 substitutes in Android." 9 Do you see that language? 10 A I see it, yes. 11 Q Do you understand that you are Google's 12 corporate witness to testify on behalf of the 13 company about that particular topic today? 14 A Yes. 15 MR. KWUN: Just for the record, Gabe, 16 obviously that's subject to objections that we 17 served on you. 18 BY MR. RAMSEY: 19 Q Okay. 20 What did you do to prepare yourself to 21 testify about this topic today? 22 A I thought a bit about the work we've been 23 doing, especially in the last few months. I had a 24 discussion with counsel about this, given this is my 25 first deposition, and that's about it.</p> |

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Exhibit 5 to Mullen Declaration - Deposition Testimony of Anwar Ghuloum

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| <p>1 over time constitute an investment by those 2 developers, in your view?</p> <p>3 A Yeah. I think anything that you learn is 4 an investment.</p> <p>5 Q And once developers have learned the Java 6 APIs, do you agree that those developers are much 7 more quickly able to develop in the -- in the Java 8 programming platform?</p> <p>9 MR. KWUN: Objection; vague and ambiguous.</p> <p>10 THE WITNESS: More quickly. I can't 11 quantify how much more quickly.</p> <p>12 BY MR. RAMSEY:</p> <p>13 Q But, in general, you agree once the 14 developers have come to know the Java APIs, 15 they're -- they're more quickly able to develop 16 applications using that platform?</p> <p>17 A Yeah.</p> <p>18 Q I asked you a question a while ago. 19 I'll -- I'll ask it in the present day.</p> <p>20 What is Google's position as to what are 21 non-infringing -- commercially-acceptable, 22 non-infringing alternatives to use of the 37 Java 23 API packages at issue in this case?</p> <p>24 MR. KWUN: Objection; calls for a legal 25 conclusion and also objection to the form of the</p> | <p>1 GPL-licensed code, from OpenJDK into the Android 2 platform?</p> <p>3 MR. KWUN: Objection; vague and ambiguous.</p> <p>4 THE WITNESS: If I understand the question 5 correctly, no, we have not done that.</p> <p>6 BY MR. RAMSEY:</p> <p>7 Q So is -- is it correct to say that the use 8 of OpenJDK GPL-licensed code within Android is a 9 prospective plan of Google's?</p> <p>10 MR. KWUN: Objection; vague and ambiguous.</p> <p>11 THE WITNESS: Can you define what you mean 12 by "prospective"?</p> <p>13 BY MR. RAMSEY:</p> <p>14 Q I mean, it's something that Google is 15 going to do in the future.</p> <p>16 A Yes, that's our plan.</p> <p>17 Q Is there a time, a specific time, in which 18 that's going to happen?</p> <p>19 THE WITNESS: Question for counsel.</p> <p>20 MR. KWUN: Privilege issue?</p> <p>21 THE WITNESS: Not privilege.</p> <p>22 MR. RAMSEY: You know, let's -- let's -- 23 we may hit a few areas; let's get a feel for how it 24 goes. Let's take a quick break, and you guys can 25 step out and come back. I also note there are going</p> |
| <p>1 question.</p> <p>2 THE WITNESS: There -- there are many 3 possibilities. I think our current effort with Enso 4 is -- is one.</p> <p>5 BY MR. RAMSEY:</p> <p>6 Q What is your current effort with Enso?</p> <p>7 A It's the use of OpenJDK libraries in 8 Android.</p> <p>9 Q Okay.</p> <p>10 What do you mean by "OpenJDK libraries"?</p> <p>11 A These are the open source libraries 12 available from the OpenJDK project licensed under 13 agreeable open source terms, as I understand it.</p> <p>14 Q Okay.</p> <p>15 You agree that up to this point in time, 16 December 2015, Google has not used any of the 17 OpenJDK libraries, or has it, within Android?</p> <p>18 MR. KWUN: Objection; vague and ambiguous 19 about "use."</p> <p>20 THE WITNESS: So by "use" you mean -- what 21 do you mean precisely?</p> <p>22 BY MR. RAMSEY:</p> <p>23 Q Okay.</p> <p>24 You agree up to this point in time, 25 December 2015, Google has not replicated code, the</p> | <p>1 to be issues.</p> <p>2 MR. KWUN: Yeah, fair enough.</p> <p>3 THE VIDEOGRAPHER: We are off the record 4 at 10:06 a.m.</p> <p>5 (Recess taken.)</p> <p>6 THE VIDEOGRAPHER: We are back on the 7 record at 10:09 a.m.</p> <p>8 MR. KWUN: Before we go further, I just 9 want to make the clarification, which I think will 10 address the issue that my client was worried about, 11 that we are designating the entirety of this 12 transcript Confidential, Attorneys' Eyes Only under 13 the terms of the protective order.</p> <p>14 MR. RAMSEY: Right. And subject to 15 everybody negotiating if there's questions about 16 designations later, absolutely.</p> <p>17 MR. KWUN: Absolutely. Obviously, it's 18 subject to further revision. But as a temporary 19 basis.</p> <p>20 MR. RAMSEY: Okay. Great.</p> <p>21 BY MR. RAMSEY:</p> <p>22 Q So my question to you, Mr. Ghuloum is: Is 23 there a specific time that Google plans to replicate 24 the GPL code from OpenJDK into the Android platform?</p> <p>25 A Yes. And in clarification to your earlier</p> |

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| <p>1 BY MR. RAMSEY:</p> <p>2 Q Have there been any discussions between</p> <p>3 Google and OEMs about the requirements of the GPL</p> <p>4 license in the context of a future version of</p> <p>5 Android?</p> <p>6 MR. KWUN: Objection; beyond the scope.</p> <p>7 THE WITNESS: As it relates to -- to GPLv2</p> <p>8 or something else?</p> <p>9 BY MR. RAMSEY:</p> <p>10 Q We're talking about GPLv2 With the</p> <p>11 Classpath Exception. You understand that license is</p> <p>12 what governs OpenJDK code?</p> <p>13 A Sure. Yes. Yes.</p> <p>14 Q Okay.</p> <p>15 A We -- I don't know of specific discussions</p> <p>16 with OEMs about this. We deal with GPL code with</p> <p>17 OEMs all the time. There are parts of the Android</p> <p>18 platform that are GPL'd and we have GPL obligations</p> <p>19 as a result.</p> <p>20 Q Is the part of the Android platform, as</p> <p>21 you just put it, that are GPL'd, is that the Linux</p> <p>22 kernel?</p> <p>23 A Correct.</p> <p>24 Q And presently the Linux kernel is the only</p> <p>25 part of code related to Android that is subject to</p> | <p>1 BY MR. RAMSEY:</p> <p>2 Q Correct.</p> <p>3 A -- and files? Yes, I believe so.</p> <p>4 Q And so would you anticipate that there</p> <p>5 would be a -- some sort of conversation between</p> <p>6 Google and OEMs about whether OEMs were willing to</p> <p>7 accept GPL'ing their own added APIs?</p> <p>8 MR. KWUN: Objection; form.</p> <p>9 THE WITNESS: We will -- we will certainly</p> <p>10 disclose to them that we are using OpenJDK.</p> <p>11 BY MR. RAMSEY:</p> <p>12 Q Do you believe that it is possible that</p> <p>13 some OEMs would take the position that they did not</p> <p>14 want to subject their new added APIs to the GPL</p> <p>15 license?</p> <p>16 MR. KWUN: Objection; form.</p> <p>17 THE WITNESS: I don't think so. I</p> <p>18 honestly -- obviously I don't know what their</p> <p>19 considerations are, but, again, given that they</p> <p>20 haven't had issues with GPL code in the past, I</p> <p>21 don't think it'll be a problem.</p> <p>22 BY MR. RAMSEY:</p> <p>23 Q If an OEM such as, let's say, Samsung, for</p> <p>24 example, had APIs -- new APIs that wanted to add to</p> <p>25 the core libraries and wanted to keep those</p> |
| <p style="text-align: right;">Page 34</p> <p>1 the GPL, correct?</p> <p>2 A I'm -- I'm not 100 percent sure, but I</p> <p>3 think so.</p> <p>4 Q And for the rest of the Android platform</p> <p>5 in the stack above the Linux kernel, Google purports</p> <p>6 to license that part of code under the Apache</p> <p>7 license, correct?</p> <p>8 MR. KWUN: Objection; form.</p> <p>9 THE WITNESS: Apache or Apache compatible.</p> <p>10 BY MR. RAMSEY:</p> <p>11 Q What do you mean by "Apache compatible"?</p> <p>12 A BSD licenses, I believe, are compatible.</p> <p>13 I'm no expert in this space.</p> <p>14 Q Okay.</p> <p>15 If Google releases an open J- -- release</p> <p>16 of Android in the future that contains GPL-licensed</p> <p>17 APIs, isn't it true that the -- that any OEM who</p> <p>18 wanted to add new APIs to that would have to agree</p> <p>19 in advance that they're willing to be subject to</p> <p>20 giving their -- their -- any new APIs they want to</p> <p>21 add away under the GPL?</p> <p>22 MR. KWUN: Objection; form.</p> <p>23 THE WITNESS: Again, specifically you're</p> <p>24 referring to adding APIs to those OpenJDK</p> <p>25 packages --</p> | <p style="text-align: right;">Page 36</p> <p>1 proprietary, don't you agree that it's likely that</p> <p>2 Samsung would -- would not agree to use the OpenJDK</p> <p>3 libraries?</p> <p>4 MR. KWUN: Objection; incomplete</p> <p>5 hypothetical and objection to the form.</p> <p>6 THE WITNESS: It's difficult -- I mean,</p> <p>7 this is -- again, it's a guess. It's -- the</p> <p>8 difficulty here is that it's unlikely that any OEM</p> <p>9 partner would actually add libraries to the OpenJDK</p> <p>10 packages.</p> <p>11 BY MR. RAMSEY:</p> <p>12 Q Isn't it true that Samsung has -- has</p> <p>13 added extra keyboard functionality in one of their</p> <p>14 APIs -- in APIs in the core library?</p> <p>15 MR. KWUN: Objection; form.</p> <p>16 THE WITNESS: Not that I'm specifically</p> <p>17 aware of where I know that partners who've made</p> <p>18 changes have been in the applications frameworks in</p> <p>19 Android.</p> <p>20 BY MR. RAMSEY:</p> <p>21 Q And the application frameworks is part of</p> <p>22 the Android stack; is that correct?</p> <p>23 A It's, yeah, part of the overall software</p> <p>24 picture.</p> <p>25 Q And so in the applications framework is a</p> |

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| <p>1 MR. KWUN: Objection; form.</p> <p>2 THE WITNESS: No, not -- not all of it.</p> <p>3 BY MR. RAMSEY:</p> <p>4 Q All right.</p> <p>5 So what part is or is not -- of the</p> <p>6 libraries' code is contained within the SDK?</p> <p>7 A It would be the -- mostly the interface</p> <p>8 pieces, so the pieces that are needed for the</p> <p>9 developer or their applications specifically to link</p> <p>10 against the version of those libraries that exist on</p> <p>11 the device.</p> <p>12 Q What do you mean, "mostly the interface</p> <p>13 pieces, so the pieces that are needed for the</p> <p>14 developer"?</p> <p>15 A You might have, for example,</p> <p>16 implementation classes that aren't really needed in</p> <p>17 the SDK itself. They're actually -- they exist on</p> <p>18 the device because they get to the device specific</p> <p>19 implementation details, but the -- you know, the</p> <p>20 base classes, the -- that are visible to the user,</p> <p>21 those APIs would be part of a -- for example, in the</p> <p>22 case of a Java API, a JAR that might be included in</p> <p>23 the SDK.</p> <p>24 Q And just for the record, what's a JAR?</p> <p>25 A A JAR is a compiled -- a compiled Java</p> | <p>1 THE WITNESS: Are APIs within the</p> <p>2 application frameworks distributed? Do you mean --</p> <p>3 there are APIs within the application frameworks</p> <p>4 that are distributed to developers, yes.</p> <p>5 BY MR. RAMSEY:</p> <p>6 Q And are the APIs that are distributed to</p> <p>7 developers from within the application framework</p> <p>8 contained within the SDK?</p> <p>9 A They are an add-on, yes. The way that SDK</p> <p>10 is distributed is -- maybe a little bit more</p> <p>11 Byzantine. We -- we distribute an integrated</p> <p>12 development environment, and then, you know, part of</p> <p>13 that is -- of an integrated development environment</p> <p>14 is an SDK manager that will go and download the</p> <p>15 components that the developer wants or needs, the</p> <p>16 developer applications.</p> <p>17 So in terms of what they end up getting,</p> <p>18 they will get, you know, JAR files that correspond</p> <p>19 to various modules. So, you know, the core</p> <p>20 libraries, the -- the various frameworks and</p> <p>21 libraries mentioned here and so on.</p> <p>22 Q Is the integrated development environment</p> <p>23 that you just mentioned known as Android Studio?</p> <p>24 A Yeah, that's correct.</p> <p>25 Q Is there any other Android integrated</p> |
| <p style="text-align: right;">Page 54</p> <p>1 language class file or set of class files or DEX</p> <p>2 file or set of DEX files.</p> <p>3 Q So in the SDK, there may be a JAR file</p> <p>4 that embodies at least some of the code within the,</p> <p>5 quote, library section of the Android stack?</p> <p>6 A Yeah.</p> <p>7 Q Is it also true that in Google's</p> <p>8 distribution of the Android SDK, within that SDK,</p> <p>9 there is code that constitutes the Android core</p> <p>10 libraries?</p> <p>11 A Yeah, that would constitute parts of the</p> <p>12 Android -- of the core libraries, again, the visible</p> <p>13 interfaces.</p> <p>14 Q So the code in the core libraries and the</p> <p>15 code from the libraries within the SDK are resources</p> <p>16 that a developer may use to create Android</p> <p>17 applications, true?</p> <p>18 MR. KWUN: Objection; form.</p> <p>19 THE WITNESS: Yeah.</p> <p>20 BY MR. RAMSEY:</p> <p>21 Q Is the -- is --</p> <p>22 Are APIs within the application framework</p> <p>23 distributed as part of the SDK to Android</p> <p>24 developers?</p> <p>25 MR. KWUN: Objection; vague and ambiguous.</p> | <p style="text-align: right;">Page 56</p> <p>1 development environment that Google offers to</p> <p>2 developers?</p> <p>3 A We used to support Eclipse, but we've</p> <p>4 moved all of our development to Android Studio at</p> <p>5 this point.</p> <p>6 Q Okay.</p> <p>7 So I asked you a question a while ago; I'd</p> <p>8 like to come back to it. I don't think we ever got</p> <p>9 there.</p> <p>10 My question is this: Sitting here today,</p> <p>11 what are -- what is Google's view about what are</p> <p>12 non-infringing, commercially-acceptable alternatives</p> <p>13 to the use of the 37 Java API packages that are in</p> <p>14 dispute in this case?</p> <p>15 A So I think we believe that there are</p> <p>16 multiple commercially-acceptable alternatives, one</p> <p>17 of which is OpenJDK, which is what we happen to be</p> <p>18 doing today with Enso.</p> <p>19 Q Okay.</p> <p>20 You know, just one question: Do you think</p> <p>21 it's fair to say that you just don't know whether</p> <p>22 the OEMs of the world, the Samsungs, the HTCs, would</p> <p>23 or would not agree to -- to use a version of Android</p> <p>24 that contains GPL-licensed OpenJDK code?</p> <p>25 MR. KWUN: Objection; form.</p> |

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| <p>1 THE WITNESS: I don't definitively know, 2 but I don't think they would have a problem with it. 3 BY MR. RAMSEY: 4 Q Can you say one way with certainty, 5 sitting here today, whether Samsung would or would 6 not accept GPL-licensed code within the Android 7 platform -- 8 A I can't say with absolute certainty. 9 Q Can you say with absolute certainty that 10 HTC would accept today GPL-licensed code within the 11 Android platform? 12 MR. KWUN: Objection; form. 13 THE WITNESS: Well, I mean, they accept it 14 within the context of Linux kernel. I can say that 15 with certainty. 16 BY MR. RAMSEY: 17 Q But you can't say with certainty whether 18 HTC or Samsung would accept GPL-licensed code within 19 the Android Runtime in the core libraries, for 20 example? 21 A I can't say with certainty. 22 Q Can you say -- 23 Is it generally true you cannot say with 24 certainty, sitting here today, that any OEM would 25 accept GPL-licensed code within the Android core</p> | <p>1 speculation. 2 THE WITNESS: I honestly don't know. 3 BY MR. RAMSEY: 4 Q Do you believe that Google would attempt 5 to, just in general, based on your experience 6 working at Google, would Google make the attempt to 7 provide the OEM non-GPL-licensed code if they 8 demanded it? 9 MR. KWUN: Objection; beyond the scope, 10 calls for speculation. 11 THE WITNESS: I'm pausing because I 12 honestly don't know. 13 BY MR. RAMSEY: 14 Q Do you think Google would just force OEMs 15 to either take GPL-licensed code, or -- or there's 16 no other alternative? 17 MR. KWUN: Objection; beyond the scope, 18 calls for speculation. 19 THE WITNESS: I don't really see us 20 forcing anyone to take anything, to be honest with 21 you. And I don't know, you know -- to be honest 22 with you, I haven't thought about -- because it 23 seems such an unlikely scenario whether an OEM would 24 object to this so strenuously that they, you know, 25 would demand an alternative license.</p> |
| <p>Page 58</p> <p>1 libraries? 2 MR. KWUN: Objection; form. 3 BY MR. RAMSEY: 4 Q In other words, that's just something that 5 you can't know with certainty? 6 MR. KWUN: Objection; form. 7 THE WITNESS: I do know with certainty 8 that we are okay with shipping GPL-licensed code on 9 our devices, on our Nexus devices. As far as other 10 OEMs are concerned, I can't say with certainty. 11 BY MR. RAMSEY: 12 Q Do you agree that it is possible that one 13 or more OEMs might reject the use of a version of 14 Android containing GPL-licensed code in the core 15 libraries? That's possible, right? 16 MR. KWUN: Objection; calls for 17 speculation. 18 THE WITNESS: I think it's possible but 19 highly unlikely. 20 BY MR. RAMSEY: 21 Q Do you think that Google would be amenable 22 to negotiating with an OEM, such as a Samsung or an 23 HTC, to use non-GPL core libraries if the OEMs so 24 desired? 25 MR. KWUN: Objection; calls for</p> | <p>Page 60</p> <p>1 BY MR. RAMSEY: 2 Q But do you agree that it's possible that 3 an OEM might object strenuously to using GPL code? 4 MR. KWUN: Objection; beyond the scope, 5 calls for speculation. 6 BY MR. RAMSEY: 7 Q And I mean GPL code in the core libraries. 8 MR. KWUN: Objection; beyond the scope, 9 calls for speculation. 10 THE WITNESS: I think anything's in the 11 realm of possibility. I just think it's very 12 unlikely. 13 BY MR. RAMSEY: 14 Q But, I mean, do you think that Google 15 would attempt to meet an OEM's commercial desire not 16 to use GPL-licensed core libraries? 17 MR. KWUN: Objection; beyond the scope, 18 calls for speculation. 19 THE WITNESS: I don't know, but I don't 20 think so, because, again, we've provided GPL code as 21 part of the Android platform in the past, so I don't 22 have any reason to believe that. 23 BY MR. RAMSEY: 24 Q But it's true that Google has never 25 provided GPL core libraries in the past within</p> |

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| <p>1 Android-release myself, I would like to know when 2 major changes like this are hitting, so -- so we 3 typically do things like this.</p> <p>4 Q Did you make the decision personally to 5 use code from OpenJDK in some future release of 6 Android?</p> <p>7 A Yeah, this was my decision.</p> <p>8 Q And why did you make the decision to 9 include OpenJD code -- JDK GPL-licensed code in a 10 future version of the Android APIs?</p> <p>11 A Again, for the reason stated here. I 12 think that all the work on Apache Harmony that's 13 going on is really being done by us, so we are 14 effectively the upstream maintainer of this at this 15 point.</p> <p>16 And we had -- we had a choice when it came 17 to Java programming language, in particular, where 18 we would keep going and developing our support for 19 Version 8 of the Java language specification, or we 20 could use OpenJDK and at the same time, get the 21 benefit of working on the same code base that many 22 other developers in Google and outside of Google 23 were -- were using.</p> <p>24 Q You just mentioned, I think, that "all the 25 work on Apache Harmony that's going on is really</p> | <p>1 regarding Apache's use of Java? 2 MR. KWUN: Objection; foundation. 3 THE WITNESS: So I don't know -- trying to 4 recall back. This would have been from a time long, 5 long ago. I really don't recall, to be honest with 6 you. I mean, I do know that a turning point for 7 OpenJDK was really getting IBM on board in terms of 8 its viability as an open source project and 9 acceptance, and so on, by -- by the Java community.</p> <p>10 But everything leading up to that is a 11 haze or I wasn't tracking it or aware of it.</p> <p>12 BY MR. RAMSEY:</p> <p>13 Q Is it your understanding that once IBM 14 began working with Sun, and later Oracle, regarding 15 OpenJDK that it ceased any efforts regarding Apache 16 Harmony?</p> <p>17 MR. KWUN: Objection; foundation.</p> <p>18 THE WITNESS: I think that's the case, but 19 I'm not totally confident in that.</p> <p>20 BY MR. RAMSEY:</p> <p>21 Q Would it surprise you to learn that Oracle 22 and Sun informed Apache Software Foundation that the 23 Apache Harmony project was not legal?</p> <p>24 MR. KWUN: Objection; foundation, calls 25 for speculation.</p> |
| <p>Page 158</p> <p>1 done -- being done by us."</p> <p>2 What did you mean by that?</p> <p>3 A I don't think there's -- I don't think 4 there's -- as far as I know, there is no other work 5 going on in the Harmony libraries anywhere outside 6 of Android.</p> <p>7 Q Is it your understanding that Sun 8 Microsystems in a prior point in history made it 9 clear to the Apache Software Foundation that use of 10 the Java APIs is not permitted?</p> <p>11 MR. KWUN: Objection; foundation, calls 12 for speculation.</p> <p>13 THE WITNESS: Yeah, I don't know.</p> <p>14 BY MR. RAMSEY:</p> <p>15 Q Are you familiar with the rather public 16 dispute between the Apache Software Foundation and 17 Sun Microsystems regarding Harmony?</p> <p>18 MR. KWUN: Objection; form.</p> <p>19 THE WITNESS: I'm vaguely familiar of 20 issues between IBM, Apache Harmony and Sun, but I 21 don't know the details. And I -- I really don't 22 know much at all about it, to be honest with you.</p> <p>23 BY MR. RAMSEY:</p> <p>24 Q And what do you know about the dispute 25 between the Apache Software Foundation and Sun</p> | <p>Page 160</p> <p>1 THE WITNESS: That would be new 2 information for me.</p> <p>3 BY MR. RAMSEY:</p> <p>4 Q Has -- have you ever had a conversation 5 with anybody at Google regarding whether the Apache 6 Harmony -- use of Apache Harmony code is legal?</p> <p>7 MR. KWUN: Again, going to caution the 8 witness not to reveal any privileged communications 9 he may have had.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MR. RAMSEY:</p> <p>12 Q Returning again to Exhibit 5020, did a 13 lawyer help you draft this e-mail?</p> <p>14 MR. KWUN: Objection.</p> <p>15 I'm going to instruct the witness not to 16 answer.</p> <p>17 BY MR. RAMSEY:</p> <p>18 Q Okay.</p> <p>19 Are you going to accept that instruction?</p> <p>20 A Yeah.</p> <p>21 MR. KWUN: Based on attorney/client 22 privilege was the basis for the instruction.</p> <p>23 BY MR. RAMSEY:</p> <p>24 Q Well, let me ask you this: Would you -- 25 would you agree that a lawyer is, in part, an author</p> |

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Exhibit 5 to Mullen Declaration - Deposition Testimony of Anwar Ghuloum